

DEC 08 2006

In the Claims:

Claims 17-22 have been rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter.

Claims 20 and 22

Claims 20 and 22 have been rejected as reciting computer program means without including a computer readable medium in the claim preamble.

Applicant respectfully traverses the rejection of claim 20. "Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefore" (35 U.S.C. § 101)

Claim 20 does not claim a computer program *per se*, and does not claim a method. Claim 20 claims a computer having certain characteristics. A computer falls squarely in the statutory category of a machine.

"Computer programs are often recited as part of a claim. USPTO personnel should determine whether the computer program is being claimed as part of an otherwise statutory manufacture or machine. In such a case, the claim remains statutory irrespective of the fact that a computer program is included in the claim." *MPEP Eighth Edition Revision 5*, § 2106.01(I). Claim 20 is directed to statutory subject matter as written, and applicant respectfully requests that the rejection be withdrawn.

Claim 22 in fact does include a computer readable medium in its preamble, and Applicant believes the rejection to be in error. However, in the interest of expediting allowance, claim 22 has been amended to make explicit that the computer program stored on the computer readable medium is executable by a computer, mirroring the language of the examiner has used to describe what the claim assertedly lacked. Applicant believes claim 22 to be allowable.

Claims 17-22

Claims 17-22 have been rejected as being solely directed to a process for solving a mathematical algorithm. Applicant respectfully traverses.

"Because § 101 includes processes as a category of patentable subject matter, the judicially-defined proscription against patenting of a 'mathematical algorithm,' to

the extent such a proscription still exists, is narrowly limited to mathematical algorithms in the abstract.” *AT&T Corp. v. Excel Communications, Inc.*, 172 F.3d 1352, 1356 (C.A.F.C. 1999).

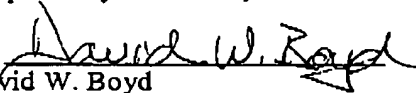
Applicant first notes that none of claims 17-22 is a process or method claim. All of claims 17-22 are apparatus claims, claiming respectively a camera (claims 17-19), a computer (claims 20 and 21), and a computer readable medium (claim 22). It is well settled that “a specific machine to produce a useful, concrete, and tangible result” is patentable subject matter. *In re Alappat*, 33 F.3d 1526, 1544 (C.A.F.C. 1992). This is true “even if the useful result is expressed in numbers”. *State Street Bank & Trust Co. v. Signature Financial Group, Inc.*, 149 F.3d 1368, 1375 (C.A.F.C. 1998).

Each of claims 17-22 recites the result the invention produces. For example, claim 17 recites that the invention is to remove camera tilt distortion from a digital representation of a panoramic photograph. The usefulness of this result is described in Applicant’s specification. Namely, the invention allows a photographer increased flexibility in positioning the camera to capture a desired photographic subject, because distortion resulting from some tilted camera positions can be removed later. This result is concrete, because the result is repeatable and predictable. *MPEP Eighth Edition Revision 5*, § 2106(IV)(C)(2)(2)(c). The result is clearly tangible; “before and after” photographs can be readily viewed, as illustrated schematically in Applicant’s Figures 4 and 7.

Because all of claims 17-22 claim apparatus that achieve useful, concrete, and tangible results, these claims are directed to statutory subject matter under 35 U.S.C. § 101.

Applicant believes this application is in condition for allowance, and such action is earnestly solicited.

Respectfully submitted,

By 
David W. Boyd
Reg. Number 50,335

December 8, 2006
Fort Collins, CO 80528
(970) 898-4475